

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Schuler et al.  
Application No. : 10/072,728  
For : **Interface Device With Tactile Responsiveness**  
Filed : February 7, 2002  
Examiner : Kumar, S.  
Art Unit : 2629

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**DETERMINATION**

Sir:

In accordance with 37 C.F.R § 1.705(b), this request for reconsideration of Patent Term Adjustment Determination is made with payment of the Issue Fee, after the mailing of a Notice of Allowance. Applicant submits herewith the following:

- (1) Payment of the fee set forth in 37 C.F.R. § 1.18(e); and
- (2) A statement of the facts involved.

In the Notice of Allowance mailed December 11, 2009, the Determination of Patent Term Adjustment (PTA) under 35 U.S.C. § 154(b) indicated a PTA of 199 days. It is believed that the correct PTA to date is 172 days.

Applicant respectfully requests that the patent term adjustment indicated in the Notice of Allowance mailed December 11, 2009 be reconsidered because the calculation of PTA does not appear to have properly calculated the number of days of Applicant delay between abandonment of the application on June 14, 2005 and the date four months after the filing of a grantable petition to revive on March 3, 2006.

In support of this request and pursuant to 37 C.F.R. § 1.705(b), Applicant makes the following statements:

I. Statements under 37 C.F.R. § 1.705(b)(2)(i)

The correct total PTO delay is 489 days and the correct total Applicant delay is 317 days. Thus, the correct total PTA is 172 days.

II. Statements under 37 C.F.R. § 1.705(b)(2)(ii)

The following dates are relevant to the time periods noted in section I above:

(1) 196 days of PTO delay are due under 37 C.F.R. § 1.703(a)(1) for failing to issue a first Office Action or Notice of Allowance within 14 months of the filing date of the application. The relevant dates are the filing date of the application on February 7, 2002 and the mailing date of the first Office Action on October 20, 2003.

(2) 36 days of PTO delay are due under 37 C.F.R. § 1.703(a)(2) for failing to issue an Office Action or Notice of Allowance within 4 months of a reply under § 1.111. The relevant dates are the filing of a response to Office Action on July 7, 2004 and the mailing date of a Final Office Action on December 13, 2004.

(3) 257 days of PTO delay are due under 37 C.F.R. § 1.703(a)(3) for failing to issue an Office Action or Notice of Allowance within 4 months of a reply under § 1.113(c). The relevant dates are the filing of a Request for Continued Examination filed on November 3, 2005 and the mailing of a non-Final Office Action on November 15, 2006.

The total PTA credits under 37 C.F.R. § 1.702(a) based on the credits noted above is 489 days.

III. Statements under 37 C.F.R. § 1.705(b)(2)(iii)

The patent issuing from the present application is subject to a terminal disclaimer filed on September 23, 2009 over U.S. Patent No. 5,889,670.

IV. Statements under 37 C.F.R. § 1.705(b)(2)(iv)

The following statements are required by 37 CFR § 1.705(b)(2)(iv)(A) and list any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in § 1.704:

(1) 2 days of Applicant delay are owed under 37 C.F.R. § 1.704(c)(8) for submitting an Information Disclosure Statement after the submission of a response to Office Action. The relevant time dates are the filing of a response to a non-Final Office Action on July 7, 2004 and the filing of an IDS on July 9, 2004.

(2) 262 days of Applicant delay are owed under 37 C.F.R. § 1.704(c)(3) between the unintentional abandonment of the application and the date four months after the date a grantable petition to revive the application was filed. The relevant dates are the date of abandonment on June 14, 2005 and the date 4 months from the filing of a grantable petition to revive on March 3, 2006 (a grantable petition to revive was filed on November 3, 2005). Applicant is unable to determine which dates were used by the USPTO to arrive at the 235 days of delay that appears on PAIR for the period between abandonment and revival of this application.

(3) 5 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to non-Final Office Action more than 3 months following the mailing date of the non-Final Office Action. The relevant dates are the mailing date of the non-Final Office Action on November 15, 2006 and the date a response was filed on February 20, 2007.

(4) 3 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to non-Final Office Action more than 3 months following the mailing date of the non-Final Office Action. The relevant dates are the mailing date of the non-Final Office Action on May 17, 2007 and the date a response was filed on August 20, 2007.

(5) 6 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to Final Office Action more than 3 months following the mailing

date of the Final Office Action. The relevant dates are the mailing date of the Final Office Action on November 2, 2007 and the date a response was filed on August 20, 2007.

(6) 39 days of Applicant delay are owed under 37 C.F.R. § 1.704(b) for filing a response to non-Final Office Action more than 3 months following the mailing date of the non-Final Office Action. The relevant dates are the mailing date of the non-Final Office Action on April 3, 2008 and the date a response was filed on August 11, 2008.

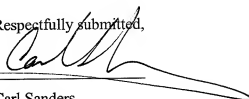
The total PTA debit under 37 C.F.R. § 1.704 based on the periods above is 317 days.

V. Conclusion

Applicant respectfully requests the PTA determined by the U.S. Patent and Trademark Office by reconsidered in light of the foregoing. Based on the total PTA credits and debits set forth above, the correct PTA for the present application is 172 days.

Date: March 12, 2010

Respectfully submitted,

  
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